

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2005-0535, Peerless Golf, Inc. v. Lake Winnepesaukee Resort, LLC, the court on April 2, 2007, issued the following order:

Peerless Golf, Inc.'s motion to clarify is granted. The order issued February 22, 2007, is vacated.

The defendant, Lake Winnepesaukee Resort, LLC (LWR) appeals an order of the Superior Court (Fitzgerald, J.) denying its motion for judgment notwithstanding the verdict (JNOV) in a construction case arising out of substantial improvements to its golf course in New Durham. LWR argues that the evidence compelled a finding in its favor for repayment of a performance spur loan, indemnification for costs arising from environmental damage caused by the plaintiff, Peerless Golf, Inc. (Peerless), and recovery of completion costs. Peerless cross-appeals the trial court's grant of LWR's motion for directed verdict dismissing its Consumer Protection Act (CPA) claims under RSA chapter 358-A (1995 & Supp. 2006) and further argues that the trial court erred in concluding that interest on the amount of its recovery from LWR should run from the date of the filing of its writ of summons. We affirm.

We first address LWR's appeal. Our standard of review of a trial court's denial of a motion for JNOV is extremely narrow. In reviewing a motion for JNOV, we will not overturn the trial court's decision absent an unsustainable exercise of discretion. Boynton v. Figueroa, 154 N.H. __, __, 913 A.2d 697, 706 (2006). A party is entitled to JNOV only when the sole reasonable inference that may be drawn from the evidence, which must be viewed in the light most favorable to the nonmoving party, is so overwhelmingly in favor of the moving party that no contrary verdict could stand. Id. In deciding whether to grant the motion, the trial court cannot weigh the evidence or inquire into the credibility of witnesses. Id. If the evidence adduced at trial is conflicting, or if several reasonable inferences may be drawn, the court must deny the motion. Id.

Having reviewed the record before us, we find no error in the trial court's decision denying LWR's motion for JNOV. For the reasons set out by the trial court, we affirm.

We next address Peerless' cross-appeal. A trial court may grant a directed verdict only when the evidence and all reasonable inferences therefrom, construed most favorably to the party opposing the motion, would

enable a jury to find for that party. The trial court cannot weigh the evidence or judge the credibility of the witnesses, and, if the evidence is conflicting or several reasonable inferences may be drawn, the motion for a directed verdict should be denied. Laramie v. Sears, Roebuck & Co., 142 N.H. 653, 656 (1998). Our standard of review on this issue is whether the trial court abused its discretion. Id.

Having reviewed the record before us, we find no error in the trial court's decision granting LWR's motion for directed verdict. For the reasons set out by the trial court, we affirm.

Finally, Peerless argues that interest on the stipulated amount of its recovery from LWR should have begun to run on one of three earlier dates rather than the date of the filing of its writ of summons. We will uphold the trial court's findings and rulings unless they lack evidential support or are legally erroneous. Cook v. Sullivan, 149 N.H. 774, 780 (2003). After reviewing the record, we conclude that the trial court made sufficient findings to support its ruling that the date of filing of the writ of summons was the proper date from which to calculate interest.

Affirmed.

Dalianis, Galway and Hicks, JJ., concurred.

**Eileen Fox,
Clerk**